

By the Committee on Commerce and Tourism; and Senator Altman

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1 A bill to be entitled
2 An act relating to public lodging and public food
3 service establishments; providing a short title;
4 amending s. 509.144, F.S.; revising definitions;
5 providing additional penalties for the offense of
6 unlawfully distributing handbills in a public lodging
7 establishment; specifying that certain items used in
8 committing such offense are subject to seizure and
9 forfeiture under the Florida Contraband Forfeiture
10 Act; amending s. 901.15, F.S.; authorizing a law
11 enforcement officer to arrest a person without a
12 warrant when there is probable cause to believe the
13 person violated s. 509.144, F.S., and where the owner
14 or manager of the public lodging establishment signs
15 an affidavit containing information supporting the
16 determination of probable cause; amending s. 932.701,
17 F.S.; revising the definition of the term
18 "contraband"; amending s. 509.032, F.S.; clarifying
19 provisions relating to the preemption to the state of
20 the regulation of public lodging and public food
21 service establishments; amending s. 509.261, F.S.;
22 providing for remedial training in response to a
23 violation of laws or rules governing public lodging
24 and public food service establishments; providing that
25 the terms and provisions of the act do not affect or
26 impede the provisions of a specified state statute or
27 any protection or right guaranteed by the Second
28 Amendment to the United States Constitution; providing
29 an effective date.

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Be It Enacted by the Legislature of the State of Florida:

Section 1. This act may be cited as the "Tourist Safety Act."

Section 2. Section 509.144, Florida Statutes, is amended to read:

509.144 Prohibited handbill distribution in a public lodging establishment; penalties.—

(1) As used in this section, the term:

(a) "Handbill" means a flier, leaflet, pamphlet, or other written material that advertises, promotes, or informs persons about an individual, business, company, or food service establishment, but does ~~shall~~ not include employee communications permissible under the National Labor Relations Act, other communications protected by the First Amendment to the United States Constitution, or communications that relate to the public health, safety, or welfare which are distributed by a federal, state, or local governmental entity or a public or private utility.

(b) "Without permission" means without the expressed written ~~or oral~~ permission of the owner, manager, or agent of the owner or manager of the public lodging establishment where a sign is posted prohibiting advertising or solicitation in the manner provided in subsection (5) ~~(4)~~.

(c) "At or in a public lodging establishment" means any property under the sole ownership or control of a public lodging establishment.

(2) Any person ~~individual~~, agent, contractor, or volunteer

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59 who is acting on behalf of a person ~~an individual~~, business,
60 company, or food service establishment and who, without
61 permission, delivers, distributes, or places, or attempts to
62 deliver, distribute, or place, a handbill at or in a public
63 lodging establishment commits a misdemeanor of the first degree,
64 punishable as provided in s. 775.082 or s. 775.083.

65 (3) Any person who, without permission, directs another
66 person to deliver, distribute, or place, or attempts to deliver,
67 distribute, or place, a handbill at or in a public lodging
68 establishment commits a misdemeanor of the first degree,
69 punishable as provided in s. 775.082 or s. 775.083. Any person
70 sentenced under this subsection shall be ordered to pay a
71 minimum fine of \$1,000 ~~\$500~~ in addition to any other penalty
72 imposed by the court.

73 (4) In addition to any other penalty imposed by the court,
74 a person who violates subsection (2) or subsection (3):

75 (a) A second time shall be ordered to pay a minimum fine of
76 \$2,000.

77 (b) A third or subsequent time shall be ordered to pay a
78 minimum fine of \$3,000.

79 (5) ~~(4)~~ For purposes of this section, a public lodging
80 establishment that intends to prohibit advertising or
81 solicitation, as described in this section, at or in such
82 establishment must comply with the following requirements when
83 posting a sign prohibiting such solicitation or advertising:

84 (a) There must appear prominently on any sign referred to
85 in this subsection, in letters of not less than 2 inches in
86 height, the terms "no advertising" or "no solicitation" or terms
87 that indicate the same meaning.

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88 (b) The sign must be posted conspicuously.

89 (c) If the main office of the public lodging establishment
90 is immediately accessible by entering the office through a door
91 from a street, parking lot, grounds, or other area outside such
92 establishment, the sign must be placed on a part of the main
93 office, such as a door or window, and the sign must face the
94 street, parking lot, grounds, or other area outside such
95 establishment.

96 (d) If the main office of the public lodging establishment
97 is not immediately accessible by entering the office through a
98 door from a street, parking lot, grounds, or other area outside
99 such establishment, the sign must be placed in the immediate
100 vicinity of the main entrance to such establishment, and the
101 sign must face the street, parking lot, grounds, or other area
102 outside such establishment.

103 (6) Any personal property, including, but not limited to,
104 any vehicle of any kind, item, object, tool, device, weapon,
105 machine, money, securities, books, or records, which is used or
106 attempted to be used as an instrumentality in the commission of,
107 or in aiding and abetting in the commission of, a person's third
108 or subsequent violation of this section, whether or not
109 comprising an element of the offense, is subject to seizure and
110 forfeiture under the Florida Contraband Forfeiture Act.

111 Section 3. Subsection (16) is added to section 901.15,
112 Florida Statutes, to read:

113 901.15 When arrest by officer without warrant is lawful.—A
114 law enforcement officer may arrest a person without a warrant
115 when:

116 (16) The officer has determined that he or she has probable

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117 cause to believe that a violation of s. 509.144 has been
118 committed and where the owner or manager of the public lodging
119 establishment in which the violation occurred signs an affidavit
120 containing information that supports the officer's determination
121 of probable cause.

122 Section 4. Paragraph (a) of subsection (2) of section
123 932.701, Florida Statutes, is amended to read:

124 932.701 Short title; definitions.—

125 (2) As used in the Florida Contraband Forfeiture Act:

126 (a) "Contraband article" means:

127 1. Any controlled substance as defined in chapter 893 or
128 any substance, device, paraphernalia, or currency or other means
129 of exchange that was used, was attempted to be used, or was
130 intended to be used in violation of any provision of chapter
131 893, if the totality of the facts presented by the state is
132 clearly sufficient to meet the state's burden of establishing
133 probable cause to believe that a nexus exists between the
134 article seized and the narcotics activity, whether or not the
135 use of the contraband article can be traced to a specific
136 narcotics transaction.

137 2. Any gambling paraphernalia, lottery tickets, money,
138 currency, or other means of exchange which was used, was
139 attempted, or intended to be used in violation of the gambling
140 laws of the state.

141 3. Any equipment, liquid or solid, which was being used, is
142 being used, was attempted to be used, or intended to be used in
143 violation of the beverage or tobacco laws of the state.

144 4. Any motor fuel upon which the motor fuel tax has not
145 been paid as required by law.

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146 5. Any personal property, including, but not limited to,
147 any vessel, aircraft, item, object, tool, substance, device,
148 weapon, machine, vehicle of any kind, money, securities, books,
149 records, research, negotiable instruments, or currency, which
150 was used or was attempted to be used as an instrumentality in
151 the commission of, or in aiding or abetting in the commission
152 of, any felony, whether or not comprising an element of the
153 felony, or which is acquired by proceeds obtained as a result of
154 a violation of the Florida Contraband Forfeiture Act.

155 6. Any real property, including any right, title,
156 leasehold, or other interest in the whole of any lot or tract of
157 land, which was used, is being used, or was attempted to be used
158 as an instrumentality in the commission of, or in aiding or
159 abetting in the commission of, any felony, or which is acquired
160 by proceeds obtained as a result of a violation of the Florida
161 Contraband Forfeiture Act.

162 7. Any personal property, including, but not limited to,
163 equipment, money, securities, books, records, research,
164 negotiable instruments, currency, or any vessel, aircraft, item,
165 object, tool, substance, device, weapon, machine, or vehicle of
166 any kind in the possession of or belonging to any person who
167 takes aquaculture products in violation of s. 812.014(2)(c).

168 8. Any motor vehicle offered for sale in violation of s.
169 320.28.

170 9. Any motor vehicle used during the course of committing
171 an offense in violation of s. 322.34(9)(a).

172 10. Any photograph, film, or other recorded image,
173 including an image recorded on videotape, a compact disc,
174 digital tape, or fixed disk, that is recorded in violation of s.

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175 810.145 and is possessed for the purpose of amusement,
176 entertainment, sexual arousal, gratification, or profit, or for
177 the purpose of degrading or abusing another person.

178 11. Any real property, including any right, title,
179 leasehold, or other interest in the whole of any lot or tract of
180 land, which is acquired by proceeds obtained as a result of
181 Medicaid fraud under s. 409.920 or s. 409.9201; any personal
182 property, including, but not limited to, equipment, money,
183 securities, books, records, research, negotiable instruments, or
184 currency; or any vessel, aircraft, item, object, tool,
185 substance, device, weapon, machine, or vehicle of any kind in
186 the possession of or belonging to any person which is acquired
187 by proceeds obtained as a result of Medicaid fraud under s.
188 409.920 or s. 409.9201.

189 12. Any personal property, including, but not limited to,
190 any vehicle of any kind, item, object, tool, device, weapon,
191 machine, money, securities, books, or records, which is used or
192 attempted to be used as an instrumentality in the commission of,
193 or in aiding and abetting in the commission of, a person's third
194 or subsequent violation of s. 509.144, whether or not comprising
195 an element of the offense.

196 Section 5. Subsection (7) of section 509.032, Florida
197 Statutes, is amended to read:

198 509.032 Duties.—

199 (7) PREEMPTION AUTHORITY.—The regulation of public lodging
200 establishments and public food service establishments,
201 including, but not limited to, ~~the inspection of public lodging~~
202 ~~establishments and public food service establishments for~~
203 ~~compliance with the sanitation standards, inspections, adopted~~

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204 ~~under this section, and the regulation of food safety protection~~
205 ~~standards for required~~ training and testing of ~~food service~~
206 ~~establishment personnel,~~ and matters related to the nutritional
207 content and marketing of foods offered in such establishments,
208 are preempted to the state. This subsection does not preempt the
209 authority of a local government or local enforcement district to
210 conduct inspections of public lodging and public food service
211 establishments for compliance with the Florida Building Code and
212 the Florida Fire Prevention Code, pursuant to ss. 553.80 and
213 633.022.

214 Section 6. Subsection (1) of section 509.261, Florida
215 Statutes, is amended to read:

216 509.261 Revocation or suspension of licenses; fines;
217 procedure.—

218 (1) Any public lodging establishment or public food service
219 establishment that has operated or is operating in violation of
220 this chapter or the rules of the division, operating without a
221 license, or operating with a suspended or revoked license may be
222 subject by the division to:

223 (a) Fines not to exceed \$1,000 per offense;

224 (b) Mandatory completion attendance, at personal expense,
225 of a remedial at an educational program administered sponsored
226 by a food safety training program provider whose program has
227 been approved by the division, as provided in s. 509.049 the
228 Hospitality Education Program; and

229 (c) The suspension, revocation, or refusal of a license
230 issued pursuant to this chapter.

231 Section 7. The terms and provisions of the act do not
232 affect or impede the provisions of s. 790.251, Florida Statutes,

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233 or any other protection or right guaranteed by the Second
234 Amendment to the United States Constitution.

235 Section 8. This act shall take effect October 1, 2011.